

## Office Action Summary

Application No.

10/517,567

Applicant(s)

ENGESSER, BERNHARD

Examiner

Stephen F. Gerrity

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-12 and 14 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/9/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Response to Preliminary Amendment**

1. Receipt is acknowledged of a preliminary amendment, filed 9 December 2004, which has been placed of record and entered in the file.

### **Priority**

2. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. § 119. The certified copy has been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

### **Information Disclosure Statement**

3. Receipt is acknowledged of an Information Disclosure Statement, filed 9 December 2004, which has been placed of record in the file. An initialed, signed and dated copy of the PTO-1449 form is attached to this Office action.

### **Specification**

4. The abstract of the disclosure is objected to because of the use of legal phraseology, i.e. said and means. Correction is required. See MPEP § 608.01(b).

### **Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito et al. (US 4,767,394).

Regarding claim 8, the Ito et al. reference discloses a method for folding a strip section (2 - as seen in fig. 6), comprising the steps of: first feeding (the strip is positioned within the device of fig. 6) the strip section to a supporting element (3); initially heating (using heaters 3f-3j) the strip section (2) on a rear side (rear is a relative term) in a region to be folded (see col. 3, lines 31-47); and then folding (using blades 4a-4e) and finally fixing the strip section in the folded state by pressing and subsequently heating (using heaters 51 - see paragraph bridging col. 3 and col. 4). Note that the term "textile" appears in the preamble and has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See In re Hirao, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Regarding claim 9, the Ito et al. reference discloses that the initial heating step (using heaters 3f-3j) includes heating the folding region approximately up to a softening point of the strip material (2) because the language "approximately up to" is a broad recitation with great latitude in scope.

Regarding claim 10, the Ito et al. reference discloses a system for folding a strip section (2), comprising: a folding device (4a-4e); and a heating device (3f-3j) arranged upstream (when fig. 6 is viewed from bottom to top) of the folding device so as to heat up a folding region of the strip section (2), the heating device (3f-3j) being arranged to

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act on a rear side (rear is a relative term) of the strip section (2). Note that the term "textile" appears in the preamble and is afforded little patentable weight. Further, heating and folding a strip which is a textile strip is merely a statement of the intended use of the device and fails to structurally distinguish the claimed apparatus over the apparatus of Ito et al.

Regarding claim 11, the Ito et al. reference discloses a supporting element (3) for the strip section (2) arranged on the folding device per folding region.

Regarding claim 12, the Ito et al. reference discloses a holding element (14') assigned to the supporting element (3) and operatively arranged so as to be feedable (using air cylinder 13') against the supporting element.

7. Claims 10-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Demmel et al. (**US 6,290,635**).

Regarding claim 10, the Demmel et al. reference discloses a system for folding a strip section (1), comprising: a folding device (11); and a heating device (sonotrodes 15 - see paragraph bridging columns 2 and 3) arranged upstream of the folding device (11) so as to heat up a folding region of the strip section (1), the heating device (15) being arranged to act on a rear side (rear is a relative term) of the strip section (1). Note that the term "textile" appears in the preamble and is afforded little patentable weight. Further, heating and folding a strip which is a textile strip is merely a statement of the intended use of the device and fails to structurally distinguish the claimed apparatus over the apparatus of Demmel et al.

Regarding claim 11, the Demmel et al. reference discloses a supporting element (2a, 2b) for the strip section (1) arranged on the folding (11) per folding region.

Regarding claim 12, the Demmel et al. reference discloses a holding element (which can be read as cogged belt 2a) assigned to the supporting element (which can be read as cogged belt 2b) and operatively arranged so as to be feedable (belt 2a is rotated towards) against the supporting element (2b).

Regarding claim 14, the Demmel et al. reference discloses a feed device (rolls 13, 14) for feeding the strip section (1) to the folding device (11), the feed device (13, 14) having a heating device (15) for heating the folding region of the strip section (1).

#### **Allowable Subject Matter**

8. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed on the attached form (PTO-892) are cited to show various methods and machines for folding. All are cited as being of interest and to show the state of the prior art.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Gerrity whose telephone number is 571-272-4460. The examiner can normally be reached on Monday - Friday from 6:30 - 3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen F. Gerrity/  
Primary Examiner  
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23 August 2007